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In re Application of :
Hosoda et al. : DECISION ON PETITION
Application Number: 09/727877 : TO WITHDRAW HOLDING OF
Filing Date: 12/01/2000 : ABANDONMENT
Attorney Docket Number: 14108 :

This is a decision on the "REQUEST TO RESCIND ABANDONMENT UNDER 37 C.F.R. § 1.181(a)," filed on May 4, 2006, which is treated as a petition to withdraw the holding of abandonment.

The Office apologizes for the delay in responding to the instant petition.

The application was held abandoned for failure to timely submit an English translation of the specification, as well as a statement that the translation is accurate, and a \$130.00 fee in accordance with 37 CFR 1.17(k) as required by the Notice to File Missing Parts of Nonprovisional Application, mailed on January 16, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on March 28, 2006.

Petitioners assert that a response was in fact timely filed. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of a "Response to Notice to File Missing Parts of Application Transmittal," a check for \$130.00, and an English language specification with certificate of translation. The post card identifies the application by application number, first named inventor's name, invention title, filing date, and attorney docket number, and contains an "Office-date" stamp dated February 26, 2001. A copy of the English translation of the specification and the statement that the translation is accurate were also included with the petition.

A review of Office financial records reveals that the \$130.00 fee was received on February 26, 2001.

Petitioners' response to the Notice to File Missing Parts of Nonprovisional Application mailed on January 16, 2001, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Notice to File Missing Parts of Nonprovisional Application mailed on January 16, 2001 was timely filed in the Office but was not matched with the application file.

As such, the showing of record is that there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application file will be referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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